

BEFORE
THE PUBLIC SERVICE COMMISSION OF
SOUTH CAROLINA

DOCKET NO. 1999-432-C - ORDER NO. 2000-0151

FEBRUARY 11, 2000

IN RE:	Application of TeleConex, Inc. for a Certificate)	ORDER <i>VOW</i>
	of Public Convenience and Necessity to Provide)	GRANTING
	Local Exchange Telecommunications Services)	CERTIFICATE
	within the State of South Carolina.)	
)	

This matter comes before the Public Service Commission of South Carolina (the "Commission") by way of the Application of TeleConex, Inc. ("TeleConex" or the "Company") requesting a Certificate of Public Convenience and Necessity authorizing it to provide local exchange telecommunications services throughout the State of South Carolina. The Company's Application was filed pursuant to S.C. Code Ann. §58-9-280 (Supp. 1998) and the Regulations of the Public Service Commission of South Carolina.

By letter, the Commission's Executive Director instructed TeleConex to publish, one time, a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The proposed Notice of Filing was to inform interested parties of the manner and time in which to file the appropriate pleadings for participation in the proceedings. TeleConex complied with this instruction and provided the Commission with proof of publication of the Notice of Filing. A Petition to Intervene was received from the South Carolina Telephone Coalition ("SCTC").

A hearing was commenced on December 29, 1999, at 12:00 p.m., in the Commission's Hearing Room. The Honorable Philip T. Bradley, Chairman, presided. TeleConex was represented by Kevin Hall, Esquire. The SCTC was represented by Margaret M. Fox, Esquire. Florence P. Belser, Staff Counsel, represented the Commission Staff.

Christopher S. Watson, Vice President of TeleConex, appeared and testified in support of the Application. TeleConex is a Florida corporation and has been granted a Certificate of Authorization to transact business in the State of South Carolina by the South Carolina Secretary of State. Upon certification from this Commission, TeleConex intends to offer local exchange services as a pure reseller, i.e. non-facilities based reseller. According to Mr. Watson, TeleConex is an alternative telephone company primarily furnishing prepaid local dial tone service to individuals and businesses that have had their telephone disconnected for nonpayment by the incumbent local exchange company.

Mr. Watson explained that customers will have access to customer service representatives through a toll-free (1-800) number. TeleConex will provide its customer service functions through an operations center located in Pensacola, Florida, which is where TeleConex's principal place of business is located. TeleConex will maintain a presence in South Carolina through a network of vendors who receive and collect service orders and payment transactions.

Mr. Watson offered that TeleConex possesses the necessary financial qualifications to provide the services for which it seeks authority. TeleConex provided, with its application, financial information to demonstrate its financial resources. Mr. Watson acknowledged that TeleConex has a strong cash position and that the company has a negative retained earnings due to a loss on operations. Mr. Watson explained that TeleConex is a relatively new company, having been incorporated in 1997, and stated that TeleConex is tracking with or is somewhat ahead of its business plan. The record also indicates that TeleConex has invested in and updated hardware and software capabilities resulting in back office tools to decrease cost and increase the effectiveness of managing the business.

Regarding the Company's technical ability to offer services in South Carolina, TeleConex, as a pure reseller of telecommunications services, will depend to some extent on the technical abilities of the ILEC. TeleConex will purchase local exchange service from the ILEC, and accordingly, the quality of the local exchange service provided by TeleConex will be at least equal to that provided by the ILEC. Further, Mr. Watson offered that TeleConex is providing services in others states and offered the successful provision of services as evidence of TeleConex's technical abilities.

Mr. Watson also testified about the management resources of TeleConex. The record shows that the management team of TeleConex consists of individuals with experience in telecommunications, sales, marketing, and human resources.

Mr. Watson stated that TeleConex has a regional resale agreement with BellSouth Telecommunications, Inc. Also, Mr. Watson testified that TeleConex is presently serving a customer base of approximately 4,500 customers in other states and has processed over 10,000 applications during its operations. Mr. Watson explained that the difference in the number of applications processed and the customer base is due to the high attrition rate in this niche market. Mr. Watson affirmed that TeleConex will provide services that meet the service standards of the Commission, that TeleConex will participate in the support of universally available telephone service at affordable rates as required by the Commission, and that the services provided by TeleConex will neither adversely impact the availability of universally affordable local exchange service nor adversely impact the public interest. According to Mr. Watson approval of the authority for TeleConex will provide consumers in South Carolina will additional choices of local service and will increase incentives for all competitors to offer better services and packages of services. Mr. Watson also testified that TeleConex will operate in compliance with the Commission's Rules and Regulations, orders and statutes.

Counsel for TeleConex offered into evidence a Stipulation with the SCTC in which TeleConex stipulated that it would only seek authority in non-rural local exchange ("LEC") service areas of South Carolina and that it would not provide any local service to any customer located in a rural incumbent's service area, unless and until TeleConex provided written notice of its intent prior to the date of the intended service. TeleConex also stipulated that it was not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas. TeleConex agreed to abide by all State and Federal laws and to participate to the extent it may be required to do so by the Commission in support of universally available telephone service at affordable rates. The Stipulation is attached hereto as Exhibit 1.

FINDINGS OF FACT

1. TeleConex is organized as a corporation under the laws of Florida and has received a certificate from the South Carolina Secretary of State to transact business within South Carolina as a foreign corporation.
2. TeleConex wishes to provide local exchange services within the State of South Carolina.
3. The Commission finds that TeleConex possesses the technical, financial, and managerial resources sufficient to provide the service requested. S.C. Code Ann. §58-9-280(B)(1) (Supp. 1998).
4. The Commission finds that Teleconex's "provision of service will not adversely impact the availability of affordable local exchange service." S.C. Code Ann. §58-9-280(B)(3) (Supp. 1998).
5. The Commission finds that TeleConex will support universally available telephone service at affordable rates. S.C. Code Ann. §58-9-280(B)(4) (Supp. 1998).

6. The Commission finds that TeleConex will provide services which will meet the service standards of the Commission. S.C. Code Ann. §58-9-280(B)(2) (Supp. 1998).

7. The Commission finds that the provision of local exchange service by TeleConex “does not otherwise adversely impact the public interest.” S.C. Code Ann. §58-9-280(B)(5) (Supp. 1998).

CONCLUSIONS OF LAW

1. Based on the above findings of fact, the Commission determines that a Certificate of Public Convenience and Necessity should be granted to TeleConex to provide competitive intrastate resold and facilities-based local exchange services only to customers located in non-rural areas of South Carolina. The terms of the Stipulation between TeleConex and the SCTC (attached hereto as Exhibit 1) are approved and adopted as a portion of this Order. In accordance with the Stipulation, TeleConex may not provide any local service to a customer located in a rural incumbent LEC’s service area, unless or until TeleConex provides such rural incumbent LEC and the Commission, written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. The Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while it conducts any proceeding incident to the Petition or upon the Commission’s own Motion, provided that the Commission can further suspend the implementation date upon a showing of good cause. It is specifically provided that all rights under Federal and State law are reserved to the rural incumbent LECs, and this Order in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications as they may be entitled. If, after notice from TeleConex that it intends to serve a customer located in a rural incumbent LEC’s service area, and the Commission receives a

Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or if the Commission institutes a proceeding of its own, no service may be provided by TeleConex pursuant to this Order without prior and further Commission approval.

Any proposal to provide local services to rural service areas is subject to the terms of the Stipulation.

2. TeleConex shall file, prior to offering local exchange services in South Carolina, its final tariff of its local service offerings conforming to all matters discussed with Staff and comporting with South Carolina law in all matters. Any proposed change in the rates reflected in the tariff for local services which would be applicable to the general body of the Company's subscribers shall constitute a general ratemaking proceeding and will be treated in accordance with the notice and hearing provisions of S.C. Code Ann. §58-9-540 (Supp. 1998).

3. TeleConex shall resell or provide the services of only those companies authorized to provide telecommunications services in South Carolina by this Commission.

4. TeleConex shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

5. TeleConex shall file annual financial information in the form of annual reports and gross receipt reports as required by the Commission. The annual report and the gross receipt report will necessitate the filing of intrastate information. Therefore, TeleConex shall keep such financial records on an intrastate basis as needed to comply with the annual report and gross receipt filings.

6. Title 23, Chapter 47, South Carolina Code of Laws Ann., governs the establishment and implementation of a "Public Safety Communications Center," which is more commonly known as a "911 system" or "911 service." Services available through a 911 system include law

enforcement, fire, and emergency medical services. In recognition of the necessity of quality 911 services being provided to the citizens of South Carolina, the Commission hereby instructs TeleConex to contact the appropriate authorities regarding 911 service in the counties and cities where the Company will be operating. Contact with the appropriate 911 service authorities is to be made before beginning telephone service in South Carolina. Accompanying this Order is an information packet from the South Carolina Chapter of the National Emergency Number Association ("SC NENA") with contact information and sample forms. The Company may also obtain information by contacting the E911 Coordinator at the Office of Information Resources of the South Carolina Budget and Control Board. By this Order and prior to providing services within South Carolina, TeleConex shall contact the 911 Coordinator in each county, as well as the 911 Coordinator in each city where the city has its own 911 system, and shall provide information regarding the Company's operations as required by the 911 system.

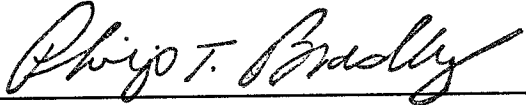
7. The Company shall, in compliance with Commission regulations, designate and maintain authorized utility representatives who are prepared to discuss, on a regulatory level, customer relations (complaint) matters, engineering operations, tests and repairs. In addition, the Company shall provide to the Commission in writing the names of the authorized representatives to be contacted in connection with general management duties as well as emergencies which occur during non-office hours.

TeleConex shall file the names, addresses and telephone numbers of these representatives with the Commission within thirty (30) days of receipt of this Order. (Attachment A shall be utilized for the provision of this information to the Commission.) Further, the Company shall promptly notify the Commission in writing if the representatives are replaced.

8. TeleConex shall conduct its business in compliance with Commission decisions and Orders, both past and future, including but not limited to, any and all Commission decisions which may be rendered in Docket No. 96-018-C regarding local competition.

9. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)

BEFORE
THE PUBLIC SERVICE COMMISSION
OF
SOUTH CAROLINA

Docket No. 1999-432-C

Re: Application of TeleConex, Inc. for a Certificate)
of Public Convenience and Necessity to Provide)
Local Exchange Telecommunications Service)
throughout the State of South Carolina)
_____)

STIPULATION

The South Carolina Telephone Coalition ("SCTC") (see attachment "A" for list of companies) and TeleConex, Inc. ("TeleConex") hereby enter into the following stipulations. As a consequence of these stipulations and conditions, the necessity for SCTC's intervention in this matter is avoided and SCTC withdraws its opposition to TeleConex's Application. SCTC and TeleConex stipulate and agree as follows:

1. SCTC does not oppose the granting of a statewide Certificate of Public Convenience and Necessity to TeleConex, provided the South Carolina Public Service Commission ("Commission") makes the necessary findings to justify granting of such a certificate, and provided the conditions contained within this stipulation are met.

2. TeleConex stipulates and agrees that any Certificate which may be granted will authorize TeleConex to provide service only to customers located in non-rural local exchange company ("LEC") service areas of South Carolina, except as provided herein.

3. TeleConex stipulates that it is not asking the Commission to make a finding at this time regarding whether competition is in the public interest for rural areas.

4. TeleConex stipulates and agrees that it will not provide any local service, by its own facilities or otherwise, to any customer located in a rural incumbent LEC's service area, unless and

until TeleConex provides such rural incumbent LEC and the Commission with written notice of its intent to do so at least thirty (30) days prior to the date of the intended service. During such notice period, the rural incumbent LEC will have the opportunity to petition the Commission to exercise all rights afforded it under Federal and State law. Also, TeleConex acknowledges that the Commission may suspend the intended date for service in rural LEC territory for ninety (90) days while the Commission conducts any proceeding incident to the Petition or upon the Commission's own Motion, provided that the Commission can further suspend the implementation date upon showing of good cause.

5. TeleConex stipulates and agrees that if TeleConex gives notice that it intends to serve a customer located in a rural incumbent LEC's service area, the Commission receives a Petition from the rural incumbent LEC to exercise its rights under Federal or State law, or the Commission institutes a proceeding of its own, then TeleConex will not provide service to any customer located within the service area in question without prior and further Commission approval.

6. TeleConex acknowledges that any right which it may have or acquire to serve a rural telephone company service area in South Carolina is subject to the conditions contained herein, and to any future policies, procedures, and guidelines relevant to such proposed service which the Commission may implement, so long as such policies, procedures, and guidelines do not conflict with Federal or State law.

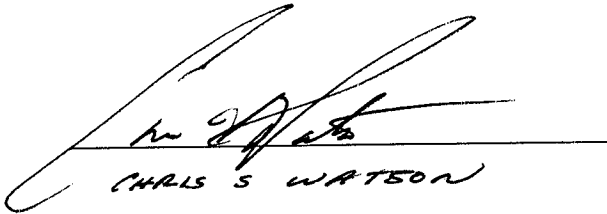
7. The parties stipulate and agree that all rights under Federal and State law are reserved to the rural incumbent LECs, and this Stipulation in no way suspends or adversely affects such rights, including any exemptions, suspensions, or modifications to which they may be entitled.

8. TeleConex agrees to abide by all State and Federal laws and to participate, to the extent it may be required to do so by the Commission, in the support of universally available telephone service at affordable rates.

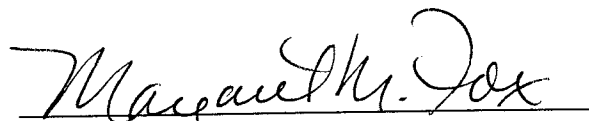
9. TeleConex hereby amends its application and its prefiled testimony in this docket to the extent necessary to conform with this Stipulation.

AGREED AND STIPULATED to this 29TH day of December, 1999.

TeleConex, Inc.:


CHRIS S. WATSON

South Carolina Telephone Coalition:


M. John Bowen, Jr.
Margaret M. Fox
McNAIR LAW FIRM, P.A.
Post Office Box 11390
(803) 799-9800

Attorneys for the South Carolina Telephone
Coalition

ATTACHMENT A

South Carolina Telephone Coalition Member Companies for Purposes of Local Service Stipulation

ALLTEL South Carolina, Inc.
Bluffton Telephone Company, Inc.
Chesnee Telephone Company
Chester Telephone Company
Farmers Telephone Cooperative, Inc.
Ft. Mill Telephone Company
Hargray Telephone Company, Inc.
Heath Springs Telephone Company Inc.
Home Telephone Company, Inc.
Lancaster Telephone Company
Lockhart Telephone Company
McClellanville Telephone Company
Norway Telephone Company
Palmetto Rural Telephone Cooperative, Inc.
Piedmont Rural Telephone Cooperative, Inc.
Pond Branch Telephone Company
Ridgeway Telephone Company
Rock Hill Telephone Company
Sandhill Telephone Cooperative, Inc.
St. Stephen Telephone Company
West Carolina Rural Telephone Cooperative, Inc.
Williston Telephone Company

AUTHORIZED UTILITY REPRESENTATIVE INFORMATION

PURSUANT TO SOUTH CAROLINA PUBLIC SERVICE COMMISSION REGULATION
103-612.2.4(b) - Each utility shall file and maintain with the Commission the name, title, address, and telephone number of the persons who should be contacted in connection with General Management Duties, Customer Relations (Complaints), Engineering Operations, Test and Repairs, and Emergencies during non-office hours.

Company Name (Including dba Name(s) or Acronyms used or to be used in South Carolina)

Business Address

City, State, Zip Code

A.

General Manager Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

B.

Customer Relations (Complaints) Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

C.

Engineering Operations Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

D.

Test and Repair Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

E.

Contact for Emergencies During Non-Office Hours (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

F.

Financial Representative (Please Print or Type)

Telephone Number / Facsimile Number / E-mail Address

G.

Customer Contact Telephone Number for Company (Toll Free)

This form was completed by

Signature

**If you have any questions, contact the Consumer Services Department (803-896-5230)
or Utilities Department at (803-896-5105).**